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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Amendment of Part 95 of the  
Commission's Rules to allow  
Interactive Video and Data  
Service licensees to provide  
mobile service to subscribers

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WT Docket No. 95-47

NATIONAL ASSOCIATION OF BROADCASTERS REPLY TO  
OPPOSITIONS TO PETITION FOR PARTIAL  
RECONSIDERATION

I. INTRODUCTION AND SUMMARY

In response to the Commission's *Report and Order*,<sup>1</sup> establishing a revised regulatory scheme for the Interactive Video Data Service ("IVDS"), the National Association of Broadcasters ("NAB")<sup>2</sup> filed a Petition for Partial Reconsideration.<sup>3</sup> Four organizations filed

<sup>1</sup> See *Report and Order* ("Report and Order") in WT Docket No. 95-47, FCC 96-224, released May 30, 1996, 61 Fed. Reg. 32710 (June 25, 1996).

<sup>2</sup> NAB is a nonprofit, incorporated association of television and radio stations and networks which serves and represents the American broadcast industry.

<sup>3</sup> NAB Petition for Partial Reconsideration in WT Docket No. 95-47, filed July 25, 1996. Two other petitions were filed -- one by Euphenia Banas, et al.; the other filed jointly by ITV, Inc., and IVDS Affiliates, LC ("ITV/IVDS"). On August 28, 1996, NAB filed comments on these other two petitions. These comments were submitted in response to the Commission's *Public Notice* issued August 7, 1996, and published one week later in the *Federal Register*. However, and because this FCC *Public Notice* failed to acknowledge the ITV/IVDS petition, the Commission issued another *Public Notice* on August 30, 1996, which was published in the *Federal Register* on September 5, 1996. This latter *Public Notice* established a second deadline for filing of comments on petitions for reconsideration and a new deadline -- today -- for petitioners' filing of responses to comments/oppositions filed vis-à-vis the petitions.

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comments on the NAB petition and on the petitions filed by others<sup>4</sup> in this proceeding. These commenting parties were: Concepts to Operations, Inc. (“CTO”), EON Corporation (“EON”), ITV/IVDS and Radio Telecom & Technology Inc. (“RTT”).

Among these points raised in NAB’s petition were: (1) that the wording of the revised FCC rules should be corrected in order to define more precisely IVDS power limits, to avoid the likelihood of IVDS licensees misinterpreting these rules and employing higher powers than those that would protect effectively the signals of TV Channel 13 facilities; (2) that the duty cycle requirement for transmitters located outside, but near the Grade B contour, is an important protection mechanism and should not be dropped; and (3) that the peak power limit for mobile RTUs should be limited to levels below the peak power limit for fixed RTUs, but in no event should be allowed to have more power than the 1 watt limit of fixed transmitters located in and near the Grade B contour.

NAB again urges the Commission to take the above-described remedial actions. Moreover, we find that the arguments and observations advanced in the oppositions filed against our petition tend to support the premises upon which our petition was based.

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<sup>4</sup> See note 3, *supra*.

## II. THE COMMISSION HAS AN OBLIGATION TO ENSURE THAT IVDS OPERATIONS WILL PROTECT LICENSED BROADCAST SERVICES.

For example, EON goes to great lengths in trying to demonstrate that only a fraction of the universe of television viewers (those living near and seeking to receive a TV Channel 13 station over the air) would be affected by the interference created by IVDS operators. However, this advocacy approach avoids confronting the basic issues: (1) that the Commission has stated its intention to protect Channel 13 facilities<sup>5</sup>; and (2) that FCC interference protection rules should clear and precise in order to be effective.

First, EON's mathematical exercise, (based on selective use of data obtained from the latest *Warren Television and Cable Factbook*,) in demonstrating the obvious -- that not all television viewers are in the signal range of a Channel 13 television station<sup>6</sup> -- does not do anything to dispute the fundamental fact here. That fact is that significant interference to Channel 13 reception *will* take place, absent FCC revision and clarification to its IVDS technical rules.

Regarding the degree to which the current rules would not effectively protect Channel 13 facilities, CTO agrees that the rules allow peak power for mobile RTUs to exceed 20 watts and states that such levels can create interference.<sup>7</sup> Moreover, the comments filed by others lodging

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<sup>5</sup> For example, in the *Report and Order* the Commission clearly stated that “[a] principal concern regarding IVDS technical requirements is to ensure that IVDS systems do not cause interference to other services. (*Report and Order* at ¶ 18, citing the Commission’s earlier decision concerning IVDS (*Report and Order* in GEN Docket No. 91-2, 7 FCC Rcd 1630, 1635 (1992)).

<sup>6</sup> Though NAB does not believe that EON’s “statistical” showing should be the basis for any regulatory relief from the obligation to protect Channel 13 facilities, it is important to note that there will be an increase in Channel 13 transmission facilities as broadcasters move to the era of digital television broadcasting.

<sup>7</sup> See CTO comments at 2.

objections to NAB Petition essentially *support* our view that the rules, in their current form, allow wildly varying interpretations -- interpretations that could lead to excessive IVDS operating power and IVDS-created interference to viewers' reception of TV Channel 13 programming.

Though EON seeks to characterize as "exaggerated" NAB's statement that the rules could allow IVDS operations with incredibly high power, the indisputable fact is that such a rule interpretation can be made -- and likely will be made -- by IVDS operators seeking to maximize their coverage and facilities.

Thus, absent reconsideration/clarification, the Commission's IVDS technical rules will condone IVDS operations which plainly will not protect Channel 13 television service. Remedial action must be taken, therefore, to ensure such non-interference.

### **III. THE COMMISSION MUST REVISE AND/OR CLARIFY ITS IVDS INTERFERENCE PROTECTION RULES**

Within the record of filings submitted into this docket after the Commission's issuance of its *Report and Order*, the agency has been presented with several parties' varying views as to "what the Commission intended" by its IVDS power maximum and duty cycle rules. Clearly, the fact that these rules are "open to interpretation" inevitably will lead to technical error and misuse of IVDS facilities. FCC regulations -- whether they be these rules dedicated to IVDS operation or any other FCC rules -- must be precise enough to eliminate this wide range of rule interpretations.

Previously NAB has urged the Commission to adopt IVDS rules that would be based on the "peak" power of such facilities' operation. And these NAB submissions have specified the

power output levels which we believe would be acceptable. We recognize that the Commission might still refuse to approach this regulatory area through primary use of a peak power evaluation. However, we believe that, at minimum, the FCC should take steps to avoid the situation where there is a distinct possibility of multiple interpretations of its rules and a genuine threat to Channel 13 television service.

Though not the regulatory course we would prefer, NAB would support a more precisely stated mean power regulation, coupled with an absolute peak power limit. By the use of such a hybrid approach, the FCC would still afford IVDS licensees what they believe is “needed flexibility,” without threatening the interference-free service that otherwise should be available from Channel 13 television licensees.

These specific power limitations are especially needed because of the expected “nomadic” nature of these IVDS mobile units. It is more than just possible that there would be multiple, mobile RTUs causing interference at the same time to Channel 13 reception in a given geographic area. Thus, it is doubly important that the power levels (including duty cycle restrictions) and level of precision in the Commission’s mobile IVDS rules be well crafted to avoid unwarranted interference to Channel 13 service.


#### IV. CONCLUSION

For the reasons stated herein, and in the previous petition and comments NAB has submitted in this docket, we urge the Commission to modify its rules and policies applying to IVDS operations such that these facilities will not pose an interference threat to the service provided the American public by Channel 13 television facilities. Achieving this non-interference

goal, while still providing IVDS licensees with the technical wherewithal to deliver a viable service, goes to the heart of the Commission's reason for existence -- avoiding interference while maximizing the responsible use of the electromagnetic spectrum. We recommend that the Commission take these steps along the lines we have described in the record in this proceeding.

Respectfully submitted,

NATIONAL ASSOCIATION OF  
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September 30, 1996

## CERTIFICATE OF SERVICE

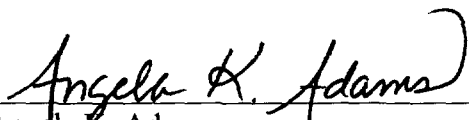
I, Angela K. Adams, hereby certify that on this, the 30th day of September, 1996, a copy of the foregoing National Association of Broadcasters Reply to Oppositions to Petition For Partial Reconsideration was mailed first class, postage prepaid to the following:

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